

CHAPTER 10

TODAY AND TOMORROW

Dark clouds are gathering over Australia's *experiment in land nationalisation*. The rosy dawn predicted by its sponsors is beginning to look suspiciously like a sunset. The leasehold system of land tenure has not failed in itself but its operation is being obstructed and destroyed by indifferent administration. It is therefore no mere desire of change for change's sake which provokes this call for reform. Rather it is a firm conviction that if leasehold tenure in Canberra is to survive sweeping changes are imperative.

The Purpose Clause

Canberra is a planner's paradise. Nowhere else has the planner the power to control land use as he has in Canberra through the purpose clause of the lease. Nowhere else is there less provision made for any effective modification of the town plan. The purpose clause can restrict the use to which a piece of land may be put, down to minute particulars e.g. not only may retail sales alone be permitted on a site but the exact sort of goods which may be sold may be specified in the purpose clause. Such detail and such arbitrariness is quite unnecessary. The purpose clause should merely indicate the purpose for which the leased land may be used without too much particularity.

It is not unreasonable for the purpose clause to divide residential leases into types ranging from single houses to high rise flats. But if the purpose clause permits a site to be used for retail shopping that is sufficient and it should not specify the nature of the business to be carried on. There is a great danger inherent in the purpose clause in this field. For example in a suburban shopping centre the planners may so arrange the purpose clauses that in effect only one butcher, one greengrocer, or more particularly, one food store is permissible. The result is of course that competition is thereby abolished, a monopoly is given and the quality and cost of service given must be affected. This is not town planning. It is a system of licensing of business and when the site of such a business is sold what is in effect being sold is not the lease but a monopoly trading right. Such tremendous powers as the planner has through the purpose clause should be used with great restraint or beyond doubt they will in time be curtailed or even abolished.

The same criticism can be made of the power of the planners when an application is made for a change in the purpose clause. If opposed by the planners that is the absolute end of it — no Court can grant such a change or hear such an application, prerogative writs notwithstanding. This is coming close to tyranny! When the planners of the N.C.D.C. do not oppose the application for a change of purpose the application is heard in the Supreme Court. The applicants and the objectors (of whom there are seldom any) and the planners are all heard, very often with an imposing array of counsel. The Supreme Court is not a town planning authority, Judges are almost certain to be on a par with King O'Malley's railway engineer where town planning is concerned.¹ The fact is the question to be decided is not a legal question at all and the whole procedure borders on the farcical.

If the planners of the N.C.D.C. oppose the application no hearing can take place. The planners should have no such absolute power. They should submit evidence and defend their views in the same way as the applicants and objectors do. There is no need for a Supreme Court hearing. Town planning matters should be heard by a Town Planning Appeal Board. Such a Board might be a body made up of say 5 members — two members chosen for their special knowledge of land administration and town planning and a Chairman with some knowledge of procedural matters as well. The other two members could well be elected members of the Advisory Council appointed by the Council. Democracy must come to Canberra some time. It is time for the town planners to come down from their ivory tower and speak to the man in the street as well as the Chamber of Commerce.

Valuation Problems

There are several special difficulties in the valuation of land in Canberra.

Firstly, in the case of residential blocks the Commonwealth directly controls the number available for purchase. It can therefore make them relatively scarce or plentiful. This variation in the supply must cause fluctuations in market values — if residential blocks are scarce prices will rise. The level of premiums offered at unrestricted auctions provides some indication of how well the supply is meeting the demand. This is not the only factor influencing premiums but it is a significant one. The Commonwealth can to some degree also affect demand by transferring persons to and from the city.

Secondly, the authority who is valuing the land is also the land owner and the receiver of rents and rates based on this valuation. This is, to say the very least, an anomalous situation.

Thirdly, there is no land market in the same sense as there is in a freehold area.

Fourthly, nowhere else are land values so markedly affected by town planning decisions.

The failure to find a firm value for land valuation has dogged Canberra from the beginning and an air of unreality has always hung around the concept of unimproved value in the Territory. This is evident in the fact that there are two different *unimproved values* — one for the calculation of land rent and one for rates. This is absurd. There should be one valuation authority independent of all other Commonwealth agencies, answerable to no one except Parliament. There should be a Canberra Valuation Office headed by a Valuer-General and to this office should automatically go information on all land dealings in the Territory whether between private citizens or between the Commonwealth and its lessees. In the final analysis the only basis for valuation is market values and although the Canberra land market is different from that in a freehold area it does nevertheless provide suitable data for valuation. The special circumstances which operate in Canberra such as the vagaries of the purpose clause, the market fluctuation of the supply of land or guarantees by Commonwealth will add to the difficulties of fair valuation. By guarantees are meant such arrangements as the developers of a Civic Centre site knowing in advance that the Commonwealth will sub-lease all the office accommodation in a prospective building thus removing all the risks of investment and partial occupancy.

Because of these potent, capricious and sometimes ephemeral factors there should be proper provision made for appeals against particular valuations. This should take the form of an Appeal Board quite independent of Commonwealth influence, or possibly a Land Valuation Court.

It should be written into the definition of unimproved value that it includes such value, added to a block by survey, subdivision and servicing as may be. It is almost incredible that the writing in of this self-evident truth should be thought necessary but the confusion of thought surrounding the administration of the Canberra leasehold system is itself incredible.

Rates in Canberra

Rates levied on the unimproved value of land are in the words of the late Lord Goshen *a rent charge in favour of the community*. They are essentially no different from the land rent paid for a Crown lease. It could be argued and justly argued therefore that in Canberra if the whole of the annual land value of a block was taken by rent rates would be both unjustified and unnecessary. In a progressive community and a growing city land values have a constant tendency to rise — the rent however is fixed for a period of time and annually increasing rates could be regarded as a supplementary rent to enable the Commonwealth to collect the full rent in each year. This is of course not the concept of rates popularly held. They are regarded as a payment for municipal services and they are justified on the ground that municipal services add to the value of the land. In Canberra,

municipal services to the citizen and the Commonwealth are inextricably entangled. It is not even known what are the costs of the services of which the common citizen is the recipient and it is not known what charges the lessees should pay for those services. It is probably better to abandon entirely the concept of rates which obtains elsewhere and it would clarify thinking on the matter even to abandon the term. If the word *rates* is retained in Canberra it will inevitably invite comparison with rates in other municipalities where it means something quite different. It is better that the payment for rates should be linked with and in some way incorporated with land rent. Theoretically and practically it is undesirable to make 2 levies, namely land rent and rates, on the same corpus, i.e. the unimproved value. It is better that the rent should be this one levy. Every lease in the popular mind carries with it the obligation to pay rent and in the popular mind rates are merely a charge for municipal services. The abolition of rent and the retention of rates would seriously weaken and ultimately destroy the whole Canberra leasehold system except as a legal fiction. It would do this the more readily in a community like Canberra where the concept of leasehold is still imperfectly understood — even amongst its administrators.

In Canberra, where theoretically at least the annual rental value of unimproved land should be entirely absorbed by rent, rates are in fact an absurdity. They are also an absurdity in practice. Commonwealth and municipal expenses are so inextricably mixed that it is impossible to separate them without making a series of assumptions which are no more than guesses quite indefensible by any acceptable norms of accountancy. It being impossible to calculate the annual municipal needs, on what basis is the level of rates to be estimated? How much should the citizen pay? In other municipalities the city fathers must face their ratepayers at intervals on the hustings and give account of their stewardship of the ratepayers money. Who is going to face the electors in Canberra? There is only one reason why there are rates in Canberra and that is the tyranny of custom on administrative minds incapable of appreciating the fact that in an exclusively leasehold City the financial methods suitable to freehold areas like Wagga Wagga, Ballarat and Gundagai are totally inapplicable.

Before leaving this question of rates it must be noted that by international standards Australian rating levels are modest to say the very least. They are probably the lowest in the world and Canberra's rates are probably the lowest in Australia. The following table was compiled in New Zealand from data supplied by the American Embassy and the High Commissions of Canada, Australia and the United Kingdom and the New Zealand Statistics Department. The figures are for the year 1963 but there is no reason to suppose the relative position had changed since then.

	<i>Local Taxes on Property as % of all Taxes</i>	<i>Local Taxes on Property as % of G.N.P.</i>	<i>Local Taxes on Property per head of Population</i>
U.S.A.	14.8	3.3	36.6 £ N.Z.
Canada	16.9	3.7	28.5 £ N.Z.
United Kingdom	12.2	3.5	17.5 £ N.Z.
New Zealand	7.8	2.2	12.5 £ N.Z.
Australia	6.3	1.4	8.1 £ N.Z.

It will be noted that rates in Australia are the lowest in the English speaking world. That Canberra rates are amongst the lowest in Australia is evidenced by the table showing them in relation to neighbouring towns to other cities of similar size. The following table shows the comparable position in 1969.

	<i>General Rate per head of Population</i>	<i>General Rate Plus Water Rate per head Of Population</i>
Hobart	—	\$67
Geelong	\$36	\$61 (est.)
Wagga Wagga	\$35	\$45
Yass	\$25	\$46
Goulburn	\$24	\$37
Queanbeyan	\$23.50	\$47
Canberra	\$6.60	\$20.60

The reader outside Canberra will conclude from the above table that Canberra rates are absurdly low and that Canberra residents are being handsomely subsidised, by other Australians. The Canberra reader however will point out that land rent is not included in the Canberra total. But why should it be included? Land rent is based on the Commonwealth ownership of land and as presently imposed has no relationship at all to municipal costs. However, even if land rent is added the total payment per head in leasehold Canberra is still only a little more than half the amount paid in rates alone in freehold Hobart and Geelong, both cities of comparable size.

The land rent and rates collected in Canberra are about half of what would be collected in rates alone in a comparable urban community.²

In other words, Canberra residents are the lucky people within the lucky country. The Canberra resident will protest that retail prices in Canberra are

higher than in any other Australian capital city. That is not disputed but it has little if anything to do with rates. These increased prices are very often the result of an unwise or over-enthusiastic use of the purpose clause to restrict the use of leased land. This has created monopolies or semi-monopolies where none should exist and competition in the market place has been inhibited.

Rates however are another matter and few Canberra residents would deny that municipal services are better in Canberra than in nearby Queanbeyan where rates are over twice as high and where about 50% of the City's rating revenue goes in interest payments on previous borrowings.

The Premium

Premium payments have one great disadvantage — they are a departure from the once accepted principle that no capital outlay was required for a poor man to become the holder of a Canberra lease and that all the capital he possessed could be put into his building, whether home or workshop.

The premium payment has few real advantages. It possibly acts to restrain thoughtless and extravagant bidding. But very often it has been a direct result of a deliberately engineered short supply of building blocks at a time when the demand for them is strongest. Sometimes the short supply is the outcome of administrative bungling or carelessness — a regular event where separate Governmental agencies are concerned with one project.

The 20 Year Re-Appraisements

The legislation establishing the leasehold system of land tenure in Canberra provoked some discussion as to what the length of the period should be between re-appraisements of unimproved value. It was argued that in a dynamic and growing society where land values tend to rise and the income earning capacity of land to steadily increase frequent re-appraisements were necessary for the Commonwealth to receive a fair and reasonable return. The fact was recognised that if the Commonwealth did not get a fair and equitable return the benefit of increasing land value would go to the lessee and this would lead to trafficking and speculation in leases. In days past it was necessary to make the lease as attractive as possible by leaving the rent at a modest and unaltered level for a long period. Twenty (20) years was fixed upon instead of the 5 years advocated by John Grant in 1924 and the annual re-appraisements he was advocating in 1926-27. It is doubtful if the same justification exists today for such a long period between re-appraisements. This is particularly so in view of the steady depreciation in the value of money which is likely to continue in the foreseeable future. Rents set in 1952 may have been reasonable, but they were low by 1957, cheap by 1962 and peppercorn in 1970. The Commonwealth has been getting a progressively diminishing rent and in effect the lessee is gaining what the Commonwealth is losing. A further reason against the long period between re-appraisements is that there is no mechanism for adjusting the rent in a downward direction if a grave economic depression such as was experienced in 1929-39 should ever

occur. Land rent should be much more responsive to economic change, for better or for worse, than it is.

In a growing city where land values rise rapidly the increases in rent after a 20 year re-appraisal will always be so tremendous as to constitute a severe strain on the resources of individuals and firms. This will not unnaturally provoke a severe political reaction. Perhaps this does not matter so much in the case of commercial premises or the multi-storey building of a large corporation like an insurance company. Corporations never die and they are administered by men whose business is largely financial. They know and understand and expect the inevitable large increase in land rent. They budget for it over a time and as the Commonwealth is almost certain to have a sub-lease of the building its rent as sub-lessee will be increased to cover any increase in land rent or rates it imposes as head lessor. In many cases the men controlling these corporations will be quite familiar with comparable costs in other towns and cities. All of these factors are modified with residential leases. The rise in land rent would not be so high because the supply and demand for residential leases keep more in harmony. Residential areas can be expanded much more readily to adjust to a rising population and supply and demand can equate more readily than is possible in a commercial, industrial or office area. The constant pressure of monetary inflation however will still operate and rent increases at 20 years intervals can and do cause hardship. The home owner will have to meet this increase from his income whereas the semi-monopolistic situation in the business and industrial area permits some if not all of the rent being passed into the prices of goods and services.

These land rent increases, especially if the proof or justification of their size is doubtful and difficult to justify under close scrutiny, will provoke resistance and even in a semi-democratic community such as Canberra they are not politically practicable.

Reform Proposals

Ideally the land rent should be adjusted annually and it is with this object in view that the following proposals are set out. There is no reason why these proposals could not apply equally well for all leases.

Rates in Canberra should be abolished and the land rent remain as the sole payment to the Commonwealth for all leased land. It may be necessary to retain the water rates at least as an interim measure. The object however should be to supply without charge that quantity of water necessary for an average household and retain metering and charging only for the type of premises which consume water in excess of that amount. The very existence of a pure water supply instantly available to all blocks adds materially to land value and this should be reflected in the land rent. Other charges, such as the notorious lavatory tax, which surely will take its place in history with King Charles' window tax, should be abolished, although it would be some

advantage to keep this one as an enduring monument to administrative ineptitude.

The land rent however must be a true and equitable rent taking for the Commonwealth the full rental value of the land. No rent remaining unchanged over a period of 20 years without re-appraisal can possibly do this. There are two principal factors which make this statement true. Firstly there is inflation and secondly the steady rise in the value of land due to the growth of a great city in a young and vigorous nation.

It is necessary to consider what are the rights of the lessor and what are the rights of the lessee and what exactly is the lessee entitled to when he fulfills the terms of his lease and pays his annual rent.

It should be laid down as a principle that the lessee is entitled to the undisputed occupancy of the leased land and to its exclusive use during the currency of the lease. He is entitled to nothing more or nothing less and in particular he is not entitled to increments in the value of the land accruing over the term of the lease. Presuming that the land steadily increases in value it is therefore essential to protect the just rights or claims of the Commonwealth lessor that the rent should increase at the same proportion and at the same rate. If there is a re-appraisal after a long period of years and there has been a steady increment in land value with no corresponding adjustment in rent there will be a large increase in rent when the lease comes up for re-appraisal. (This fact in itself is a recognition of the principle that increments in land value are the property of the lessor.) The increased rent will be resented by the lessee to a degree proportional to the amount of the increase. It will be represented as an injustice to the lessee but in reality it is an injustice to the Commonwealth lessor which has been receiving over the period since last re-appraisal less rent than that to which the value of the land leased entitled it. This injustice is all the more apparent when one considers the factors causing this increase in value (1) the fact of inflation and (2) the factor of real growth in land value. This latter factor is due to increases in population, increases in Commonwealth expenditure in Canberra, increases in community wealth, and, with commercial land, increases in its income earning capacity.

It is necessary therefore that the rent should be increased annually by the payment of an Annual Rent Supplement in addition to the annual rent payable throughout the currency of the leases. In the case of the inflation factor this Annual Rent Supplement is necessary merely to keep the real value of the rent paid constant and to prevent an annual fall in the value of rent paid.

An official recognition of the depreciation of the value of money is made very unwillingly by Governments which are largely responsible for it. Creeping inflation has been practically universal throughout the Western world during the last 25 years or more and there is no indication that it is likely to cease. Indeed, it is not too much to say that it is a deliberate feature of

fiscal policy in most countries and is based on the idea that without it full employment would not be possible. This inflation factor has come to be recognised though silently in most contracts extending over a period of years. If it is not recognised and allowed for in leasing contracts it will gravely hamper the equitable operation of any leasehold land system. The inflation factor cannot and must not be ignored in the terms of Canberra leases. If it is ignored it will surely cripple the whole system and make a monkey out of the leasehold tenure. Obviously the longer the term between re-appraisal of rental value the most urgent the necessity that this matter be considered. Money has for years been depreciating at the rate of 3 to 4 per cent per year and the effect has been and must be a reduction in rent paid.

In the 5 years 1965-1969 the value of the Australian dollar fell 21%.³ The only satisfactory way to deal with this situation is by the payment of an Annual Rent Supplement to cover the amount of the depreciation. This is not however the only factor causing the value of the lease to increase from year to year. The second value increase is due to growth. Canberra is a young city in its early years and one does not need to be a prophet to say with confidence that the population will increase and that trade, business, commerce or wealth will grow in the coming years. Land will become increasingly valuable quite apart from the value added by depreciation of money. This means that the price of land will reflect 2 factors – inflation and growth – and the increase due to both causes should accrue to the lessor i.e. to the Commonwealth. The principle should be laid down and adhered to in practice in the Australian Capital Territory that the lessee is entitled to undisturbed occupancy and exclusive use but he is not entitled to increments in land value. The only way that this latter right can be secured to the Commonwealth is by an Annual Rent Supplement based upon actual increases in land value.

The question is, how can a fair and reasonable assessment be made of what this annual supplement should be? This should be one of the principal functions of the Valuer-General's Office. It is visualised that every transaction in land in the Territory will be automatically recorded in that office and all particulars of auctions and premiums likewise recorded. This valuation data is all that the land market in Canberra can produce. From this data there should be no particular difficulty in estimating the increases in land value annually (if any) for every block in Canberra. That there will be increases will be inevitable in any year where depreciation of money occurs. The depreciation factor in the increase could be calculated quite readily from any official Commonwealth economic index – the Consumer Price Index probably being as good as any.

Theoretically the rent supplement added year by year should make periodic re-appraisements unnecessary but there would be no harm in retaining the 20 year re-appraisements as a periodic check on the justice of the rent. It cannot be over-emphasised that if the inflation factor continues to be

ignored the Canberra leasehold system may survive but it will do so as a legal fiction only.

Administration

The most important period of Canberra's development as this story has shown was in the days of the Federal Capital Commission. Whatever its defects or limitations — and it had many — it was a vigorous administration with a fine record of accomplishment. Its deficiencies should not be repeated but an attempt should be made to regain to a large degree its one great advantage. It was an all purpose unitary administration and that is what Canberra needs today. It is proposed therefore that the administration of Canberra should be entrusted to a Canberra Corporation to control and administer everything in the Territory excepting housing, education and perhaps police and electricity. It is further proposed that title to all lands within the Territory should be vested in the Corporation.

Within the Corporation it is proposed that there should be 3 major divisions, namely:-

1. Lands and Administration Division
2. Development and Works Division
3. Municipal Services Division

Lands and Administrative Division

The functions proposed for this Division would be to:-

- (a) arrange and conduct the sale of leases, the auctioneer being an employee of the Corporation;
- (b) receive all land rent and premiums, including land rent paid;
- (b) receive all land rent and premiums, including land rent paid by the Territory housing authority on behalf of Commonwealth owned houses and land rent paid by statutory authorities;
- (c) prepare estimates on which the Annual A.C.T. Vote to finance Commonwealth capital works is based;
- (d) receive, administer and disburse the Annual Vote;
- (e) decide on the purpose clauses to be inserted in leases and engross all leases, urban and rural;
- (f) administer rural leases and all stock and agricultural functions;
- (g) administer the staffing and control the finances of the Corporation;
- (h) receive water rates as long as they exist;

- (i) prepare and draft legislation for the Territory.

On the legislation aspect the ideal would be for the Corporation to obtain the appointment of experienced draftsmen on its own staff. This however may be somewhat difficult to achieve — tradition dies hard — and as an alternative a sub-office of the drafting authority should be established within the general framework of the Corporation. Anything less than that would be most unsatisfactory.

It is not proposed that the Corporation should have a legislative research branch. The capacity of such branches for spectacular expansion and growth is usually much more obvious than their accomplishments or their success in finding any really necessary function to perform.

Development and Works Division

The Division, it is proposed, should undertake works for and at the direction of the Commonwealth and carry out certain municipal works. It is suggested that its functions should be:-

- (a) town planning;
- (b) to advise on purpose clauses in urban leases;
- (c) police the building covenants, purpose clauses and administer the building regulations;
- (d) to carry out all construction works entrusted to the Corporation by the Commonwealth Government;
- (e) to construct roads, footpaths, bridges etc. and service all blocks;
- (f) to carry out municipal works for the city such as
 - (1) street maintenance and cleaning;
 - (2) parks and gardens;
 - (3) water works, sewerage, drainage and refuse disposal.

It is quite obvious that as town planning would feature very largely in the activities of this proposed division it would be mostly formed by the present National Capital Development Commission (N.C.D.C.). It is not however recommended that the proposed Corporation should take over or be in any way involved in any Commonwealth housing activity in the Territory excepting of course that it will supply the housing authorities with serviced blocks upon which the houses for rental are to be erected. It is however proposed that all other Territory functions at present carried out by the Department of Works will be taken over by the Corporation — mostly if not entirely by the Development and Works Division.

The finances of this Division should come from Corporation revenues and where appropriate from the Annual Vote.

Municipal Division

The establishment of this Division is not a matter of such urgency nor of such immediate necessity as the two divisions discussed above. It is visualised that the functions of this Division would very largely be those at present carried out by the Departments of Health and Interior. They would include the following:-

- (a) local libraries;
- (b) local health;
- (c) motor registration;
- (d) transport;
- (e) cemeteries;
- (f) baths;
- (g) rubbish collection;
- (h) possibly police but certainly the rest of the multiple functions of local government from dog control to the issuing of sundry licences.

It is proposed that this Division would pay all its receipts into and receive all its finances from Corporation funds.

There is no reason why this Division in the fullness of time might not be administrated and controlled by an elected body. This would be an unusual arrangement but then Canberra is an unusual city. It offers a possible solution to a problem which has hitherto been insoluble in other Federal Capital Cities, such as Washington. D.C.

The Territory is bound by Commonwealth wide laws and administrative policies and practices. The proposed Corporation would not change that. But it would mean that the Departments of the Treasury, Works, Interior and Health would have no particular Territory function to perform. The proposed Corporation must be an independent body, completely free of Public Service Board and Departmental control, answerable to Parliament alone, preferably through the Prime Minister but not the Prime Minister's Department.

The proposed Canberra Corporation will accomplish many things not being done under present arrangements:

1. It will give one unitary administration to the Australian Capital Territory (without inter-departmental jealousies) by men giving their total attention and expertise to Canberra and nothing else.
2. It will enable Canberra's finances to be more efficiently and realistically presented.
3. It offers a solution to popular participation in local government without intruding on proper Commonwealth interests.

If the Canberra Corporation proposal were accepted the first and most important question would be the selection of the Chairman. On this selection the success or failure of the Corporation would very largely depend. One of the factors which over the years must have contributed to the Department of the Interior's indifferent land administration was that the Secretary of that Department, the Minister's chief adviser, was not selected because of his knowledge or appreciation of Canberra's unique urban land tenure, or because of his expertise in land law or administration. In fact, he almost certainly had none of these qualifications. The Canberra Corporation would be no improvement at all unless the right man was selected as Chairman and the right man would mean a man with a sound knowledge of land tenure and of land laws generally and of Canberra's leasehold system. A sound back-

ground in land administration elsewhere would be a good qualification, particularly if it involved leasehold tenure. Under the proposed Corporation Canberra's administrative costs would come increasingly from land revenue and it is essential that the Chairman have a background in land laws or lands administration. The Canberra leasehold system is governed by legislation much more complex than say a simple statute like the Commonwealth Electoral Act.

The Valuer General's Office

There is one function of immense importance in the administration of any comprehensive system of land tenure and that is land valuation. The peculiar difficulty of land valuation in a completely leasehold area has already been referred to. The inherent difficulty in the lessor being his own valuer was brought to notice in a dramatic way by the High Court of Australia in a recent judgement on the re-appraisal of unimproved value. This case - *Esmonds Motors Pty. Ltd. v. Nixon* - underlines the necessity for completely new procedures in the method of re-appraisements. The Court held that it was contrary to law for the Minister to nominate himself as the *prescribed authority* to re-appraise the land value during the 20th year of a lease and to then delegate his authority to an officer of the Commonwealth. This legal obstacle could be readily removed by at most a minor amendment to the City Area Leases Ordinance. But that is just not good enough. It is contrary to natural justice that the lessor should have such overriding authority in arriving at a new basis for the re-appraisal of value.

It is suggested therefore that the office of a Canberra Valuer-General should be established and although he must of necessity be appointed by the Commonwealth his office must be completely divorced from the administrative structure of the proposed Corporation. He must be, in relation to the citizen and the Commonwealth, in a position of separateness, similar to that of members of the judiciary. He must be answerable to no one except Parliament, in the same way as the Auditor-General. The duties proposed for

the Valuer-General would be to carry out all the valuations necessary for the Commonwealth and for the Corporation or such other bodies as statute may direct or permit. As mentioned previously there should be machinery for appeals against valuation to an Appeals Board or to a Valuation Court.

Advisory Council

A further problem of administration in Canberra which must be tackled with resolution and some originality is the part to be played by the citizens of Canberra in their own government and the administration of those affairs which affect their lives intimately.

No people who speak the English tongue can long remain content under an administration in which they play no effective part and no administration can govern such a people unless the arrangements are such as to make them sensitive to and responsive to their needs and opinions.

No men of ability would wish to sit on a body which has no authority, prestige, function or power. The Advisory Council, although an earnest attempt to fulfill the need for citizen participation, has not been a conspicuous success. To many Canberra citizens the Advisory Council is and has always been a joke.

There are however a number of ways in which the problem might be attacked. It has been suggested above that the Municipal Division of the Corporation might be administered and controlled by an elective body. There are citizens in Canberra of distinction and ability who could undoubtedly be members of such a body. The creation of the Division, its staffing, organisation and accommodation could be a challenge to the community but there is no absolute reason why it could not be done and why it could not be done successfully.

An alternative might be for a reconstituted Council known simply as the Canberra Council, or perhaps the Canberra Citizen's Council, to be elected, and for the Council to appoint members to attend, with rights of speech and voting where such are appropriate, meetings of the Division Boards or even the Corporation itself.

If the new Advisory Council or whatever name it may be called — and a change of name is strongly recommended — becomes a useful, respected and necessary component of the administration its Chairman would be the natural spokesman and representative of the citizens of Canberra on public and official occasions. He could perhaps receive the title of Mayor and could be elected either by the Council itself or preferably by a direct vote of the people.

Whatever reforms are carried out in the administration of Canberra it is still two things — a federal capital and a home for over 130,000 Australians. The City has been created by the Commonwealth and its destiny will always be intimately effected by Commonwealth policies. To call into being a great

national capital in what was practically a wilderness has been a unique and stupendous task.

The Sub-leasing Scandal

Among the administrative policies followed to promote development in the central city area has been that of encouraging large financial corporations to obtain leases and erect multi-storey office buildings by the inducement that these buildings would be leased by the Commonwealth for Commonwealth purposes viz. office accommodation for Departments. The corporations involved are mostly the same ones which once rejected Canberra leases as having no security value.

One effect of the removal of the commercial risk in these investments has of course been high premiums for Civic Centre blocks which in turn results in inflated land values generally within and without the Civic Centre area. These higher land values may be thought to be to the Commonwealth's benefit but in this instance the benefits are not obvious unless it is to obtain more money with which to pay the increased office rentals which also follow. The fact is that today *more Commonwealth money is dissipated in paying for this office accommodation in Canberra than, is collected in land rent from the whole of the Territory.*

As new suburbs are opened the Commonwealth grants business purpose leases for a handsome premium and then proceeds to take a sub-lease over one of the buildings erected thereon in order to establish a Post Office. The whole policy or practice is of course quite absurd. It will be recalled that one of the great arguments for the transfer of the Seat of Government from Melbourne was the enormous saving in office rental which would result from the Commonwealth building, owning and occupying its own offices. It is high time that a policy designed to realise this end was vigorously instituted. The quick action solution would be for the Commonwealth to compulsorily purchase all the high rise office accommodation it holds on sub-lease in Civic Centre and commence building its own Post Offices. This would be the simplest solution.

An alternative solution would be for the Commonwealth Government to plan a building programme which would transfer its Departments into its own offices. If this was done quickly Civic Centre would almost certainly resemble a deserted village or a ghost town. It may therefore be argued that Commonwealth should do this at a pace calculated so that the vacated premises could be taken up by private enterprise. Some may claim that the erection of one Commonwealth Office Block per annum would achieve the transfer objective within a few years. Of course such a building programme would be a very real stimulus to Canberra's growth. It would generate more land rent for the Canberra Corporation and it would be a sound investment for the Commonwealth Government. It would be an historical objective achieved.

In Canberra's early days when population was smaller many considered it to be a defensible policy to rent office accommodation for government Departments. It primed the pump. It caused buildings to be erected in Civic Centre. It made Canberra grow. But the pump needs no priming now. Canberra is moving. It is a growing city and the practice of feather bedding wealthy investors and corporations is nothing short of a national scandal.

It must be a primary objective of Commonwealth policy to put an end to this dissipation of public moneys. As noted previously the Commonwealth and its instrumentalities pay more for office rental accommodation in Canberra than the Commonwealth receives by way of land rent from the whole of the Territory. It is most probable that more Commonwealth money has been spent in Canberra since 1928 for office accommodation than the Commonwealth has received as land rent — right back to the first lease in 1911! This disgraceful state of affairs must be finished quickly. It is not recommended that the proposed Canberra Corporation should be involved in or concerned with these sub-leasing arrangements. The Development and Works Division would of course be directly concerned if a decision was made that the Commonwealth should move into its own office buildings. This Division would then be charged with the responsibility of planning and constructing these Offices.

Urban Re-development

The first point to be made on this question, and it must be made most emphatically, is that the town planners should be years ahead of the private developers in ideas on re-development. The initiative in redevelopment must be taken by the town planners and not left to the whim of private developers.

It is proposed therefore that the town planning authorities with the Corporation should designate on the town plan areas of re-development or urban renewal wherein re-development is likely to be necessary within 20 years. These areas should be clearly indicated on the town plan. They should be more than architect's models or dreams of what the area will be in the future. The plans should be readily available for inspection by the public. They should be displayed in a public place and all lessees within these areas should be notified that they are within an area of urban renewal. At the expiration of leases within this area it is proposed that they should not be renewed and it is further proposed that the Canberra Corporation should have the right of pre-emption over all leases within any urban renewal area. The Commonwealth's power of compulsory acquisition should be used in these areas if, and only if, the re-development to be undertaken is re-development by or on behalf of the Commonwealth.

Upon the exercise of the right of pre-emption by the Corporation it is proposed that the Corporation should re-service the land, clear it and offer it for lease.

The Territory

The Territory for the Seat of Government is too small. Its boundaries should be re-drawn so as to include Queanbeyan. But that alone is not enough. The Shire of Yarrowlunla (which includes Captains Flat, Bungendore and Michelago) Lake George, Jeir, Gundaroo, Gunning, Murrumbateman, Tarago and Collector must also lie within its boundaries.

The area proposed to be added to the 900 square mile Territory would be about 400 square miles.

One of the most grievous of the many grievous mistakes and examples of shortsightedness associated with the Australian Capital Territory was the exclusion of Queanbeyan from within its boundaries. As noted in an earlier Chapter Queanbeyan and Captain's Flat were within the federal area recommended to the Commonwealth Government following District Surveyor C. R. Scrivener's report. They were not however within the area the New South Wales Premier of 1909 agreed to surrender. The Commonwealth anxiety to obtain a territory of its own and its disinclination to continue fighting with the New South Wales Government and Parliament over the size and location of that territory probably explains their exclusion. Time has shown the exclusion of Queanbeyan to have been a major blunder and this blunder must be remedied immediately. Canberra has spilled over the Territory borders. The Commonwealth is now actually renting office space in Queanbeyan to accommodate one of its Canberra based Departments. The growth of Queanbeyan has been and will continue to be rapid. Real estate values largely if not entirely influenced by Commonwealth expenditure in nearby Canberra are rising rapidly. Thousands of Canberra employees — private and government — reside in Queanbeyan. The years have shown the fears expressed in 1901 to the First Parliament by Senator Staniforth Smith to have been very real. The words he used when warning against a small federal territory are rather appropriate today. He said:

... land grabbers, syndicates and speculators — will rush over to buy all the land around with the idea of forming suburbs for people to dwell in. The consequence will be that the people of the Capital instead of living within the Federal Territory, will live in suburbs belonging to private people and the immense revenue the Commonwealth should receive as ground landlord will go into the pockets of the speculators.⁴

Let no one of this generation who would accuse any politicians of an earlier generation of being shortsighted or obstructive when they excluded Queanbeyan from the federal territory do so without demanding immediate remedial action from the new breed.

The satellite cities for Canberra planned by the National Capital Development Commission will in some instances involve building close to the Territory borders and the possibility of urban development by others immediately outside the Territory in the Goodradigbee, Gunning and

Yarrowlunla Shires is very real. It is therefore imperative that the additional areas mentioned above should be incorporated within the Territory. When this is done the Territory residents may be saved the unedifying experience of reading in Canberra newspapers of plans for *gracious living blocks* near the Territory borders to accommodate Canberra's public servant gentleman farmers looking for a way to dodge taxation. Or of how land developers were all busily engaged obtaining the ownership of freehold land in the vicinity of the border. Among the many motives implied is that these purchases are a prelude to subdivision and an ultimate lucrative turnover. The Territory is in the process of being surrounded by Environas. Future generations will have cause to curse the memory of the Commonwealth Parliament unless it acts resolutely to protect the larger public interest. The law must bridle the corroding appetite for unjust enrichment. The late J. R. Fraser M.P. warned of these developments. He saw it thus:-

*... I hope the Federal Government will realise the danger that will continue if the boundaries of the Territory are not protected. Land developers are astute. They can be utterly ruthless and overpowering in their quest for quick millions.*⁵

It is proposed that all the land in the enlarged Territory should be acquired by the Commonwealth forthwith and that the 95,000 acres freehold remaining in the existing Territory should also be acquired immediately. The cost for the 95,000 acres will probably amount to \$20 million. Had this land been acquired with that acquired in the 1912-1920 period it would have been obtained for about £300,000. Let not the same injustice be perpetrated in the enlarged Territory. To acquire all the land in the areas mentioned would probably cost the Commonwealth in the vicinity of \$300 million. This land should be acquired as soon as the additional Territory is surrendered by New South Wales. A special grant to the State — call it a severance grant — would possibly hasten the State's agreement to surrender.

Conclusions

Canberra is a young but decadent city proclaimed J. E. Ogen (Tas. Non Lab.) to the Senate on 20 September, 1928 *but*, he added *it will never be anything under leasehold. The place is dead.* Time has belied the prophecy. Canberra is alive and growing and its planned growth stands as proof of what could have been done in other Australian cities had a system of leasehold tenure operated there. But it did not operate elsewhere and the result has been that the prohibitive costs involved in compensation for land have ensured that most of the planners' dreams in other cities have never even left the drawing board or ever will.

The Territory for the Seat of Government has not however been the laboratory for social progress, the incubator for radical political thought and legislation which many dreamed it would become. The scope for radical re-

form is great, the need for it is even greater, but the demand for it, alas, is feeble. The experiment in land nationalisation is Canberra's sole distinctive radical innovation. Today even that is threatened with extinction. The Canberra leasehold system has not failed. Its own inherent strength and wisdom and justice has carried it through years of political neglect and indifferent administration but wisdom and justice alone are not enough. The basic or fundamental principles of leasehold — moral, political, social, economic, legal and administrative — must be restated, or for that matter, in the Canberra context, they must be stated for the first time. The Canberra leasehold system must not be a victim of administrative ineptitude and political indifference. It can survive if, but only if, sweeping reforms are implemented.

NOTES ON CHAPTER 10

1. See page 41.
2. See Second article *Does Canberra Pay Its Way* by Peter Harrison, A.N.U. Urban Research Unit, Research School of Social Sciences, in *The Canberra Times*, 17 September, 1970.
3. International Financial Statistics, August, 1970. Published by the (I.M.F.) International Monetary Fund.
4. P.D. 2:1785.
5. Extract from *Keeping in Touch* Telecast 23 May, 1969.